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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/312,922	05/17/1999	DR. VINCENT MICHAEL FIGUREDO	ICOM-00401	3206

7590 08/11/2004

KENDYL ROMAN
730 BANTRY COURT
SUNNYVALE, CA 94087-3402

EXAMINER	
PARSONS, CHARLES E	

ART UNIT	PAPER NUMBER
2613	23

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/312,922	FIGUREDO ET AL.1	
	Examiner	Art Unit	
	Charles E Parsons	2613	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☐ Responsive to communication(s) filed on _____.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) _____ is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-7,23-27 and 32-43* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1-7, 23-27, 32-42 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-7, 23-27, 33-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood in view of McDonald.

Claim 1, 23, 33, 37,: A system for transmitting data representing a video image, comprising:

b. a transmitter coupled to the medical test device for receiving and selectively distributing data representing the video image; and (See Wood figure 1 item 32 a modem is a transmitter.)

c. one or more remote receivers for communicating with the transmitter and configured to receive the data representing the video image from the transmitter. (See Wood abstract)

claim 23 is further limited to remote control of the device, (See Abstract)

a. a medical test device for generating the stream of video image; (While Wood does not explicitly teach that his ultrasound generates video streams, McDonald does, see McDonald column 4 lines 15-18. At the time the invention was made, it was well known in the art that medical images were streaming video images, it was further known that there was, and still is, a great benefit to transmitting them over a wide area network including the internet so that medical staff may view the images from remote location, see

McDonald column 3 lines 60-64 implying this. Therefore it would have been obvious to one of ordinary skill in the art to generate a video stream from a medical device for the purposes of transmitting it, motivated by McDonalds teaching that longer video streams overcome some of the problems associated with the "cine loop" technology of the time. See column 1 line 57 through column 2 line 8)

Claim 2, 37, The system according to claim 1 wherein the transmitter further comprises a compressor configured for compressing the data representing the video image thereby forming a compressed stream of data that can be viewed in real time. (See McDonlad column 4 lines 29-31)

Claim 3, 37: The system according to claim 2 wherein the one or more receivers further comprise a decompressor configured for returning the compressed stream of data into an uncompressed state. (See McDonald column 9 lines 39-45. As mentioned in previous actions, is a video stream is compressed, decompression of said video is inherent.)

Claim 4: The system according to claim 1 further comprising a recorder device coupled to the medical test device and configured for storing the data representing the stream of video image generated by the medical test device. (See McDonald column 9 lines 1-35.)

Claim 5, 24: The system according to claim 1 wherein the medical test device is one of an ultrasound, a sonogram, an echocardiogram, and an angioplastigram. (See Wood abstract)

Claim 6, 25: The system according to claim 1 further comprising a network coupled between the transmitter and the one or more receivers for transporting the data representing the video image. (See Wood abstract as well as Wood column 3 lines 60-65.)

Claim 7, 26: The system according to claim 6 wherein the network is an Internet Protocol network. (See Wood columns 5 and 6 as well as McDonald column 3 lines 60-65.)

Claim 27, 34: The system according to claim 23 wherein the user remotely controls parameters of the plurality of video images including frame rate and frame size. (See McDonald column 9 line 62 through column 10 line 15 as well as Wood column 10 lines 10-39)

Claim 35: The system of claim 33 wherein said transmitter further comprises a compressor which can be configured to use a plurality of video compression algorithms and wherein said control command allows the remote user to select or change the selection of one of the plurality of video compressors compression algorithms to be used by the transmitter to process said digitized frames. (See McDonald column 5 lines 57-61)

Claim 36: A system of claim 33 wherein said control command allows the remote user to start or stop the transmission of said video. See column 11, starting and stopping transmission of images is an inherent feature.

4. Claims 32, and 38-43 rejected under 35 U.S.C. 103(a) as being unpatentable over Wood and McDonald as applied to claim 23 and 33 above, and further in view of Gillio and Ostrow.

Claim 32, 38, 40: The system of claim 23, said system further comprising:

a robotic device coupled to said transmitter, wherein said transmitter is configured to control said robotic device, and wherein said transmitter is configured to receive control commands from said user, and wherein at least one of said video images comprises a substantially live video, whereby said remote receiver receives and displays said live

video substantially in real time, and whereby the remote user can control said robotic device with control commands while viewing said live video. (See Wood column 11 lines 35-59 wherein Wood teaches that his system is capable of controlling the system remotely. While he does say that he needs a pair of hands at the patient location, and makes no mention of using a mechanical device both Gillio and Ostrow do see column 17 lines 7-35 of Gillio as well as Ostrow column 2 lines 23-26. Therefore at the time the invention was made it would have been obvious to one of ordinary skill in the art to replace a human with that of a robotic arm motivated by a desire to reduce labor expenses as taught by Ostrow in column 1 lines 5-11. Furthermore, The use of a robotic device is interpreted as making the system automatic thus not needing a second person. However, case law has previously settled that "it is not invention to broadly provide a mechanical or automatic means to replace manual activity which can accomplish the same result" In re Rundell, 18 CCPA 1290, 48 f.28 958, 9 USPQ 220. In this case a robotic arm would accomplish the same result as that of a person._As for the seeing the results in real time limitation of claim 38, it is clear that Wood fully intends for the user to see what is being done during a live examination furthermore Gillio clearly shows that any live medical procedure would have to have live video associated with it in order for the user to perform the surgery in real time.)

As for the data pipe limitation of claim 40 see wood figure 1 items 42 and 44, any transmission medium is considered to be a data pipe capable of achieving the desired result.

As for the listener connected to the video server for making socket connections, note that any internet device will inherently contain devices see wood column 5 lines 49-60

39. (new) The system of claim 38, said system further comprising: d. a robotic device coupled to said transmitter, wherein said transmitter is configured to control said robotic device, and

wherein said transmitter is configured to receive control commands from said user through said remote receiver, and

wherein said robotic device responds to said control commands in substantially real-time, and wherein said stream of video images comprises a substantially live video, whereby said remote receiver receives and displays said live video substantially in real-time, and whereby the remote user can control said robotic device with control commands while viewing said live video,

whereby the remote user can perform procedures with the robotic device and the medical device with substantially real-time control and real-time visual feedback. (See Gillio column 17 lines 7-35. While he is not specific as to how his device is coupled, it would have been obvious to one of ordinary skill in the art to that if the robotic device were to be controlled remotely it would have to be controlled via a transmitting device and the video would have to be sent to the user in real time.

Claim 41. The system of claim 40, wherein said transmitter further comprises:

a video recorder connected to the video control and video server for recording the: stream of video images for later playback as a recorded video; :end a recorded video transmitter for transmitting said recorded video to at least said one or more receivers via a recorded video data pipe; wherein at least one of said receivers further comprises: (See McDonald figure 1 item 30)

a video player connected to said recorded video data pipe and said video client and said video control whereby said recorded video is received and displayed to said user; (See McDonald figure 1 item 26)

whereby said user can control the recording of portions of said stream of video images in one or more instances of said recorded video and can control the selection and playback of at least one of said instances of said recorded video. (See McDonald column 9 line 62 through column 10 line 15)

Claim 42. The system of claim 41 , wherein said video recorder further comprises an edit list, said edit list comprising a list of one or more segments of the recorded video, whereby specified portions of the recorded video can be selected for transmission. (See McDonald column 10 lines 16-25.)

Claim 43. The system of claim 41, wherein said video recorder further comprises an edit list, said edit list comprising a list of one or more segments of the recorded video, whereby specified portions of the recorded video can be selected for special processing. (See McDonald column 10 lines 16-40)

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles E Parsons whose telephone number is 703-305-3862. The examiner can normally be reached on M-TH 7AM to 5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chris Kelley can be reached on 703-305-4856. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CEP

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